22d Congress, 1st Session. [Rep. No. 194.] Ho. of Reps.

ABOLISH IMPRISONMENT FOR DEBT.

January 17, 1832.

Mr. R. M. Johnson, from the Select Committee, to which the subject had been referred, made the following

REPORT:

The Committee, to whom was referred so much of the message of the President of the United States, as respects Imprisonment for Debt, report:

That, acting under a constitution of limited powers, delegated by the people of the several States, an act of Congress to *abolish imprisonment for debt*, can have effect only in cases belonging to the federal courts. The primary and only legitimate object of Government is, to secure to each individual the enjoyment of life, liberty, and the pursuit of happiness. These cannot be forfeited without crime. It is essential to the preservation of liberty, that crime should be defined, and its punishment determined by law. To protect the citizen from acts of tyranny, the constitution secures, in all cases, to the accused, the right of trial by an impartial jury. The violation of this principle, is the essence of despotism. If insolvency is fraud, and if that fraud is a crime which justly deprives the insolvent of his liberty, the law should define it as such, and fix its punishment. The trial should be, like that of other crimes, by an impartial jury, in the State and district where the crime is committed; and the punishment should be pronounced by the court, subject, as in other convictions, to the pardoning power, in the discretion of the Executive. In the punishment of debtors, all these sacred principles are subverted. The citizen is deprived of his liberty, without the accusation of a crime, without a criminal prosecution, and without a jury to decide upon his guilt; and his punishment is submitted to the sole discretion of an individual creditor.

In all the catalogue of human crimes, there is none which more imperiously requires definition, than that of fraud. To punish a crime which is not well defined by law, is always more injurious to society, because of the abuse of power to which it subjects the accused, than to suffer it with impunity. Why does not the law define and punish ingratitude, a crime which is marked with universal execration? Because of the difficulty of giving to it such a precise definition, as would separate the innocent from the guilty. By omitting to punish this vice, we avoid a greater evil. So, in ablolishing imprisonment for debt, absolutely and without condition or reservation, we shall avoid an evil infinitely greater, than can be obviated by any restriction. Our constitution denounces privileged orders. The warning voice of history, bearing, like peals of thunder, the cries of the oppressed from ancient

and modern nations, where these orders have existed, and still exist, demanded this security for the citizens of our own country. But to give to the creditor, in any case whatever, power over the body of his debtor, is a violation of this principle. It subjects the liberty of the great mass of our most useful, because most enterprising and industrious, citizens, to the caprice, the vengeance, or forbearance of the wealthy and the more fortunate. Why do we reprobate the act which crowded so many human beings in the black hole of Calcutta, where mortal pestilence was inhaled from the infected atmosphere? Because it was an act of cruelty; and it is the same abhorrence that elicits this popular cry, which has become almost universal against imprisonment for debt.

Yet legislators, the majority of whom have generally been of the wealthier class, or at least free from pecuniary difficulties, have so complicated the system, that it has become involved in a labyrinth of mystery; and to secure its existence, they have surrounded it with such dark suspicions of fraud, that the subject can scarcely be approached without embarrassment. Thus, like all other systems of despotism, it has imposed upon the minds of men, with some shadow of plausibility, the idea of necessity; till, by long habit, they have gradually become, in some degree, reconciled to the oppression. The victim is cut off from society; and because he pines in solitude, where his miseries are not seen, nor his complaints heard, his case is passed over, as an instance of individual misfortune, for which there is no remedy, and which is scarcely worthy of observation. But if all of these victims of oppression were presented to our view in one congregated mass, with all the train of wives, children, and friends, involved in the same ruin, they would exhibit a spectacle, at which humanity would shudder. It was a remark of one of the sages of antiquity, that the best government is that *where* an injury to one citizen is resented as an injury to the whole. *Here*, in our own free and happy country, many thousands af our fellow-citizens are suffering annually the deepest injury. Children are deprived of their natural guardians, families of their support, and freemen of their liberty, by a remnant of barbarism, which requires nothing but the voice of legislation to blot it out for ever. From the earliest dawn of civilization, it has been a subject of the severest censure, and of the most unqualified denunciation.

But history teaches us that men, accustomed to bondage, may contract a fondness for the chains that bind them. The subjects of monarchs become attached to their aristocratic establishments; and are hardly persuaded to forego the splendors of royalty, for the simplicity of republican government. So in relation to this vestige of despotism amongst us: the most obstinate prejudices are enlisted in its favor, sustained by all the cupidity of sordid minds. The injustice and cruelty of the system are generally conceded; but the wisest heads and purest hearts have found such insurmountable difficulties in devising a remedy, which will at once eradicate the evil, and guard against imaginary dangers, that the preservation of personal liberty must be regarded as hopeless, upon any other principle than that of the total and absolute abolition of imprisonment for debt. For ages past, the common rights of humanity have been violated upon the pretext that, in some cases, fraud may exist, and to such a degree, as may justly deprive a citizen of his liberty. The committee are aware that such cases may exist; but can there be no other remedy provided, than that of submitting it to the arbitrary will of the creditor, to punish at discretion the innocent and the guilty? Shall ninety-nine innocent victims of misfortune be cut off from their fami.

lies and the world, that one fraudulent debtor may be punished without trial, and without proof of guilt? It is inconsistent with the whole spirit of our institutions, to urge, as arguments in favor of the system, that creditors are seldom vindictive against honest debtors; or that fraudulent debtors are more numerous than cruel creditors; or that public sentiment will correct the disposition to act with severity.

The facts are often the reverse. Creditors are often relentless. It is doubtful whether fraud is not as common on the part of the creditor, as on that of the debtor, *(and cruelty more common than either);* and public sentiment has but little influence over an avaricious mind. The system originated in cupidity. It is a confirmation of power in the few against the many; the fortunate against the unfortunate; the Patrician against the Plebian; and it is doubtful whether that civilized community ever existed, which would tolerate this system, if the sentiments of all could be known and faithfully represented. But we learn, from long habit, to endure, and even to advocate, what becomes most execrable to us when the fetter is broken. So long as a solitary benefit is known to result from any established custom, however oppressive or absurd in its general tendency, still there is a reluctance to change. The Spanish inquisition, now the abhorrence of all enlightened minds, was long sustained in many countries, by the tyrant's plea of *necessity* for restraining vice; and its cruelties were long tolerated, upon the principle that some solitary benefit might result. Even in this country, and to the present day, the force of ancient prejudice is so strong, that persons are found who are fearful for the interest of religion, if undefined and unprotected by legislative acts; and, in support of the principle, some instance may be cited, in which this interference may have restrained licentiousness. In the burning a thousand heretics, the world may have been delivered from one dangerous citizen. In the destruction of a thousand sorcerers, convicted of witchcraft, one knave may have perished. The benefit of clergy, which secured from capital punishment, for petty offences, all who could read and write, while the more ignorant were doomed to death for the same crimes, may have saved *some* useful lives, when a milder and more equitable administration of justice would have saved *many*. A despot, clothed with unlimited power, governing without law, may have punished some offenders, who would have escaped under our republican institutions.

All these cruelties have been legalized; and while bleeding humanity was sinking under the burthen of oppression, the few instances of apparent benefit sustained the whole system of tyranny; and the world became so reconciled to the bondage, that every reformation has been effected by violence, and toil, and blood. Of a similar character is this remaining vestage of barbarism, which dooms the victim of misfortune to the culprit's destiny. It is sustained upon the same principle. In the imprisonment of a hundred debtors, one may have deserved the punishment for fraud; and in this solitary case of just retribution, the cries of the ninety-nine innocent sufferers are unheard or unregarded. The obligation of a contract is sacred. The committee would not recommend a measure calculated to impair it. The property of the debtor is made liable for its discharge, in all well regulated societies, with such reservations as are deemed necessary by the sovereign power, such as giving immediate relief to the wife and children, together with such implements as will enable the husbandman and mechanic to pursue their useful vocations. These reservations were made in the early ages of the Grecian Republics; and the principle has been held sacred by munici-

pal law, by common law, by civil law. It is a regulation which the prosperity of the commonwealth requires, because industry is the life of the country.

A nation may exist without professional men, without a monied capital; but it cannot exist, in a civilized state, without agriculturists and artizans. But it is of little avail to reserve their implements of labor, and imprison their persons. The State sustains a loss, the families are ruined, and the creditors are not benefitted. When the effects of the debtor are exhausted, and his debts remain unliquidated, the world has been divided in sentiment as to the extent of a pecuniary obligation against the personal liberty of the debtor. In ancient Greece, the power of creditors over the persons of their debtors was absolute; and, as in all cases where despotic control is tolerated, their rapacity was boundless. They compelled the insolvent debtors to cultivate their lands like cattle, to perform the service of beasts of burthen, and to transfer to them their sons and daughters, whom they exported as slaves to foreign countries.

These acts of cruelty were tolerated in Athens during her more barbarous state, and in perfect consonance with the character of a people, who could elevate a Draco, and bow to his mandates registered in blood. But the wisdom of Solon corrected the evil. Athens felt the benefit of the reform, and the pen of the historian has recorded the name of her lawgiver, as the benefactor of man. In ancient Rome, the condition of the unfortunate poor was still more abject. The cruelty of the Twelve Tables against insolvent debtors, should be held up as a beacon of warning to all modern nations. After judgment was obtained, thirty days of grace were allowed, before a Roman was delivered into the power of his creditor. After this period, he was retained in a private prison, with 12 ounces of rice for his daily sustenance. He might be bound with a chain of 15 pounds weight; and his misery was three times exposed in the market place, to excite the compassion of his friends. At the expiration of sixty days, the debt was discharged by the loss of liberty or life. The insolvent debtor was either put to death, or sold in foreign slavery beyond the Tiber. But if several creditors were alike obstinate and unrelenting, they might legally dismember his body, and satiate their revenge by this horrid partition. Though the refinements of modern criticisms have endeavored to divest this ancient cruelty of its horrors, the faithful Gibbon, who is not remarkable for his partiality to the poorer class, preferring the liberal sense of antiquity, draws this dark picture of the effect of giving the creditor power over the person of the debtor. No sooner was the Roman Empire subverted, than the delusion of Roman perfection began to vanish; and then the absurdity and cruelty of this system began to be exploded: a system which convulsed Greece and Rome, and filled the world with misery; and without one redeeming benefit, could no longer be endured; and, to the honor of humanity, for about one thousand years during the middle ages, imprisonment for debt was generally abolished. They seemed to have understood what, in more modern times, we are less ready to comprehend—that power, in any degree, over the person of the debtor, is the same in principle, varying only in degree, whether it be to imprison, to enslave, to brand, to dismember, or to divide his body. But as the lapse of time removed to a greater distance the cruelties which had been suffered, the cupidity of the affluent found means again to introduce the system; but by such slow gradations, that the unsuspecting poor were scarcely conscious of the change. The history of English jurisprudence

furnishes the remarkable fact, that, for many centuries, personal liberty could not be violated for debt. Property alone could be taken to satisfy a pecuniary demand. It was not until the reign of Henry III., in the thirteenth century, that the principle of imprisonment for debt was recognized in the land of our ancestors, and that was in favor of the barons alone; the nobility against their bailiffs, who had received their rents, and had appropriated them to their own use. Here was the shadow of a pretext. The great objection to the punishment was, that it was inflicted at the pleasure of the baron *without* a trial—an evil incident to aristocracies, but obnoxious to republics. The courts, under the pretext of imputed crime, or constructive violence on the part of the debtor, soon began to extend the principle, but without legislative sanction. In the 11th year of the reign of Edward I., the immediate successor of Henry, the right of imprisoning debtors was extended to merchants—Jewish merchants excepted, on account of their heterodoxy in religion—and was exercised with great severity. This extension was an act of policy on the part of the monarch. The ascendency obtained by the barons menaced the power of the throne; and, to counteract their influence, the merchants, a numerous and wealthy class, were selected by the monarch, and invested with the same authority over their debtors. But England was not yet prepared for the yoke. She could endure a hereditary nobility; she could tolerate a monarchy; but she could not yet resign her unfortunate sons, indiscriminately, to the prison. The barons and the merchants had gained the power over their victims; yet more than 60 years elapsed, before Parliament dared to venture another act, recognizing the principle. During this period, imprisonment for debt had, in some degree, lost its novelty. The incarceration of the debtor began to make the impression, that fraud, and not misfortune, had brought on his catastrophe, and that he was, therefore, unworthy of the protection of the law, and too degraded for the society of the world. Parliament then ventured, in the reign of Edward III., in the 14th century, to extend the principle to two other cases—debt and detinue. This measure opened the door for the impositions which were gradually introduced by judicial usurpation, and have resulted in the most cruel oppression. Parliament, for one hundred and fifty years afterwards, did not venture to outrage the sentiments of an injured and indignant people, by extending the power to ordinary creditors. But they had laid the foundation, and an irresponsible judiciary reared the superstructure. From the 24th year of the reign of Edward III., to the 19th of Henry VIII., the subject slumbered in Parliament. In the mean time, all the ingenuity of the courts was employed, by the introduction of artificial forms and legal fictions, to extend the power of imprisonment for debt in cases not provided for by statute. The jurisdiction of the court called the King's bench, extended to all crimes or disturbances against the peace. Under this court of criminal jurisdiction, the debtor was arrested by what was called the writ of Middlesex, upon a supposed trespass or outrage against the peace and dignity of the crown. Thus, by a fictitious construction, the person who owed his neighbor was supposed to be, what every one knew him not to be, a violator of the peace, and an offender against the dignity of the crown; and while his body was held in custody for this crime, he was proceeded against in a civil action, for which he was not liable to arrest under statute. The jurisdiction of the court of common pleas, extended to civil actions arising between individuals upon private transactions. To sustain its importance upon a scale equal with that of its rival, this court also adopted its fictions, and

extended its power upon artifical construction, quite as far beyond its statutory prerogative; and upon the fictitious plea of trespass, constituting a legal supposition of outrage against the peace of the kingdom, authorized the writ of capias, and subsequent imprisonment, in cases where a summons only was warranted by law. The court of exchequer was designed to protect the King's revenue, and had no legal jurisdiction, except in cases of debtors to the public. The ingenuity of this court found means to extend its jurisdiction to all cases of debt between individuals, upon the fictitious plea that the plaintiff, who instituted the suit, was a debtor to the King, and rendered the less able to discharge the debt by the default of the defendant. Upon this artificial pretext, that the defendant was debtor to the King's debtor, the court of exchequer, to secure the King's revenue, usurped the power of arraigning and imprisoning debtors of every description. Thus, these rival courts, each ambitious to sustain its relative importance, and extend its jurisdiction, introduced, as legal facts, the most palpable fictions, and sustained the most absurd solicisms as legal syllogisms.

Where the person of the debtor was, by statute, held sacred, the courts devised the means of construing the demand of a debt into the supposition of a crime, for which he was subject to arrest on mesne process; and the evidence of debt, into the conviction of a crime against the peace of the kingdom, for which he was deprived of his liberty at the pleasure of the offended party. These practices of the courts obtained by regular gradation. Each act of usurpation was a precedent for similar outrages, until the system became general, and at length received the sanction of Parliament. The spirit of avarice finally gained a complete triumph over personal liberty. The sacred claims of misfortune were disregarded; and, to the iron grasp of poverty, were added, the degradation of infamy, and the misery of the dungeon.

Parliament appeared sometimes to relent, and made several efforts to correct the abuses; but the influence of creditors, and the power of the courts, were too formidable for Parliament itself; and while a vestage of the system remains, the oppression will never terminate. The time was, when personal liberty in England was so highly valued, that before the institution of a suit against an individual, the plaintiff was required to give real and responsible pledges, to prosecute the suit with effect; and if the action proved to be groundless, or malicious, he was subjected to damages. But ultimately, the courts, without the authority of statute, broke this common law barrier against oppression, and for real pledges substituted fictitious names, as *John Doe and Richard Roe*; while, upon the mere suggestion or oath of the plaintiff, the defendant may be arrested and imprisoned, before debt is proven; unless he can procure bail for his appearance. Thus was the whole artifice of the learned benches of England, with all the authority of the aristocracy, employed for centuries, to introduce, by the most gradual measures, imprisonment for debt, even before a people, accustomed to all the abuses of hereditary power, could be brought under its control. But when it was established, our ancestors, with the whole system of British jurisprudence, brought it with them to this new world. It has been long endured, and its miseries have been extensively felt. It is this day depriving our country of the industry of many of her citizens, and carrying distress into their numerous families. But there is evidently a spirit of reformation awakened in the public mind, and the redeeming voice of the people demands the change.

Public sentiment, like the general tendency of our laws, is in favor of the unfortunate debtor. It speaks for liberty, and gives it an estimate above the value of gold. If there is a country on earth, in which personal liberty has a claim to the protection of the law, paramount to every other claim, it is found on these western shores. But while the body, *under any circumstances*, is liable to arrest on mense process, or after judgment is obtained, whether to coerce a surrender of property, or to punish for real insolvency, there is no security for liberty. Till the destinies of fortune shall be subject to human control, no citizen, however meritorious, is certain to close his days without being immured in the walls of a prison. If stolen goods are secreted, the oath of suspicion is necessary to procure a search warrant; and then, the person suspected is free from arrest, till the property is found in his possession. But in case of debt, the person is liable to be arrested and to be held in custody, even under the mildest insolvent laws, till the debtor shall, on oath, make a surrender of his effects. The plea of necessary coercion furnishes a poor apology. Man, held in confinement for one hour, by the lawful authority of his fellow-citizen, is degraded in the estimation of society, and is liable to lose respect for himself. The spirit of freedom, which achieved, and which still sustains our independence, is broken; and he often sinks into a state of ruinous despondency—or is urged on to acts desperation. The only safe course is, to destroy the capias ad satisfaciendum, the writ which takes the body upon a judgment, and as experience may point the necessity of other measures to secure the surrender of the property, time will perfect them. The power of the State Legislatures is ample, and they will not fail to provide the remedy; and the committee believe it will be most wise to leave that power with the States. Whatever may be the theory of legislation, the true character of a system is demonstrated by its effects. If it renders society more free and happy, it should be retained; but if it augments the sufferings of the community, without producing benefits which will more than countervail the evils, it ought to be abandoned. The spurious origin of this system, is not the leading point on which the committee would dwell—nor even the generous sympathies which its victims excite. Its ruinous consequences to society, without benefit even to the creditor, show the necessity of its abolition.

The power of the creditor is generally exerted under feelings of irritation, and to satiate a spirit of revenge. The American citizen, who has bled for his country, or whose penury has resulted from his father's sacrifices in the cause of independence, is reduced to a condition in which he cannot meet, with punctuality, the claims against him. What is the consequence? From that moment his liberty is forfeited to the discretion of his creditor. His patriotism, his integrity of character, avail him nothing. If he is permitted, in his daily exercise, to pass the bounds of a prison wall, it is by the forbearance of another. He is liable to be held in degrading custody, even under the mildest laws of insolvency, till he shall have taken the oath prescribed; and then, like the culprit who has received punishment for his crime, he is discharged from prison. This is the liberty which Americans enjoy, under the system of imprisonment for debt. Even the illustrious Jefferson, that patriarch of liberty, and the virtuous and patriotic Monroe, whose lives were devoted to their country in its darkest hours, enjoyed their freedom, during the shades of retirement, not by the protection of the law, but by the forbearance of their creditors. A citizen cannot, by contract, consign himself to bondage. He may fix his signet to the indenture,

that purports to bind him, but the law will break the fetter. A man may forfeit his liberty by the commission of crime; the safety of society may require that he shall be locked out from the world; but the debtor is not convicted of a crime: his liberty is not dangerous to society; yet, by technical implication, he may be consigned to prison.

The slave, while he toils for his master, contributes to the nation's wealth, and to the benefit of society. The resources of a nation consist principally in the industry of its citizens; and labor, by whatever hands performed, is a contribution to the public weal. But he who pines a day in prison, drags out that portion of his life in useless indolence; starving in misery, or living upon another's labor, while society is deprived of his own. The miseries of the debtor's prison present a picture of wretchedness which fancy could scarcely draw. These miseries are not confined to the prisoner's cell. They extend, in all their horror, to the humble dwelling of his family. The broken-hearted wife, surrounded with helpless, suffering children, weeping for the return of an affectionate father, innocent and ignorant of the fell destiny which dooms them to a state of untimely orphanage, is driven to despondency, and sometimes to acts of infamy. Nor is the evil obviated by the argument, that the mildness of the insolvent laws, furnishes an easy release from confinement. The moment a citizen enters a prison, at the command of his fellow-citizen, his mind is humbled; and the principle is the same, whatever may be the duration, whether it can deprive him of his liberty for a day, a month, a year, or three score years and ten. Notwithstanding all the boasting of the mildness of our insolvent laws, our jails are crowded with debtors—thousands are annually imprisoned for debt in these United States. These facts amply demonstrate, that the existing insolvent laws do not furnish a remedy for the evil. It must be eradicated by an entire and total abolition.

In the courts of the United States, no security can be demanded against groundless or malicious actions, except the legal costs of suit. But by general practice under the laws, the simple affidavit of the plaintiff, that the defendant is indebted to him, is sufficient to consign the defendant to prison, unless some responsible person will befriend him by becoming his bail. He is not required to state that the obligation was incurred by false pretences, nor that the defendant was suspected of an intention to secrete his property, or to withdraw his person, or to entertain any fraudulent design. Nothing is required, but the plaintiff's oath of debt, to place the liberty of the defendant beyond the protection of law, and subject him to the favor of an individual, to save him from prison. It is difficult to ascertain any fixed principle upon which imprisonment for debt is advocated. It is regarded by some, as a punishment for a crime; by others, a mode of coercion; by some, a fulfilment of an implied contract; by others, again, a matter of public policy. If it is a crime, the object of punishment should be the reformation of the offender, and the prevention of future offences. An offence is against society; the guilt of the offender should be ascertained by a jury; the penalty should be fixed by law, according to the degree of guilt, and pronounced by the court without consulting the pleasure of an individual. (But in imprisonment for debt, there is no reformation.) Society is not disturbed by a criminal act. No guilt is imputed to the debtor. The law furnishes no penalty. The court pronounces no sentence. There are no grades of offence. All is left to the discretion of an individual, and the law operates indiscriminately upon the fraudulent and unfortunate. If it

be a means of coercion, it is inefficacious. It cannot compel the honest man to pay what he has no means of paying. It places him beyond the possibility of procuring those means. The dishonest man will devise a method of placing his property beyond the reach of his creditors, by preparing himself in anticipation of the result. He will triumph in the impotence of the laws. The innocent are always degraded, and often ruined, while the guilty escape the punishment which their crimes deserve. It is not the fulfilment of a contract. No fair construction, even under all the fictions of law, can justify the conclusion, that a debtor agrees to forfeit his personal liberty to the will of his creditor. The debtor, as a citizen and free man, is in all respects equal to his creditor. No contract could deprive him of personal independence; and in contracting a debt, he has no intention to compromit his freedom. A contract upon such a principle, would be void, both in law and in equity. In contracting a debt, there is a mutual agreement between the parties, in which both are interested. If a loan, it is for usury; if a sale, it is for profit; if an act of friendship, gratitude is the safest pledge for its return, when circumstances will permit. But in all cases, the ability of the debtor, from the *property* which he holds, or may acquire, is the only proper means of payment; and it is the only legitimate resource which the creditor can honorably and lawfully anticipate. If his object is to obtain power over the liberty of the debtor, it is dark, designing, dishonorable in the extreme, and utterly unworthy the sanction of law. If his dependence is upon the friends of the debtor, by exciting their commisseration, through cruelty, it deserves public reprobation. Lord Mansfield justly observes, if any near relation is induced to pay the debt for the insolvent to keep him out of prison, it is taking an unfair advantage. No credit is desirable in a free country, predicated upon the imprisonment of the debtor, and it ought not to be granted upon such considerations.

In a country without a uniform bankrupt law, the cruelty of the system is beyond the endurance of freemen. As a matter of policy, the committee cannot discover either the wisdom or the justice of the system. To oppress the poor may well enough consist with the policy of despots; but to an American citizen, whose birthright is liberty, it must be odious. The wealth and prosperity of a nation, the comforts of society, and the happiness of families, depend upon active industry, combined with well directed enterprise. Our laws and institutions recognize no classes. Farmers, mechanics, merchants, professional men, and the capitalist, are all peers. The revolutions in property, and distinctions resulting from industry, virtue, and talent alone, are as certain as the revolutions of the seasons. They cannot be perpetuated in one family, nor excluded from another. The poor may become wealthy, and the rich poor.

The prospect of success invigorates the hand of industry, and gives impetus to the noblest enterprise. To these exertions, every encouragement should be given; but when the cloud of misfortune lowers, to consign its victim to the prison, is to blast his future prospects, and to fix upon his family the mark of degradation. To maintain that confidence, which is necessary to a fair and reasonable credit, effectual remedies should be provided against the property of the debtor, always reserving from execution such articles as are necessary for the pursuit of his calling; but that he may retain the spirit of useful enterprise, for the benefit of both his family and the community, those reservations should be carefully guarded, and the freedom of his person always secured. It cannot be denied, that great

calamities, both public and private, have arisen from too much credit—seldom, or never, from too little; and it is equally certain, that the excess of credit as frequently proceeds from him who gives, as from him who receives it.

If imprisonment for debt shall be totally abolished, the parties will understand the proper legitimate resource for the fulfilment of a contract. It will then rest upon its proper basis. The person granting credit, will confide in the ability of the debtor to meet the claim, or he will require satisfactory pledges. Whatever censure may attach to the abuse of credit, it is but just to divide it between them. It is frequently as injurious to the one as to the other; and without the voluntary consent of both, it cannot exist. In the present state of society, the injury of the system may be seen and felt in a limited degree; and persons not accustomed to visit the abodes of misery, will scarcely be convinced of its dangerous tendency. But as population becomes more dense, the difficulty of procuring the comforts of life must be increased. Then, if the power of the creditor over the personal liberty of his debtor shall remain, it will be exercised with unrelenting severity. Though our republican forms may be preserved, their essence may be destroyed. The country will be divided into two great classes, creditors and debtors; between whom the most obstinate hostilities will exist; and as in Greece and Rome, society may be convulsed, confidence destroyed, and liberty endangered.

We should legislate with a view to posterity; that, with our fair inheritance, we may transmit to them a harmonious system, calculated to sustain their rights, and perpetuate the blessings of freedom.

While imprisonment for debt is sanctioned, the threats of the creditor are a source of perpetual distress to the dependant, friendless debtor, holding his liberty by sufferance alone. Temptations to oppression are constantly in view. The means of injustice are always at hand; and even helpless females are not exempted from the barbarous practice. In a land of liberty, enjoying in all other respects the freest and happiest government with which the world was ever blessed, it is a matter of astonishment that this cruel custom, so anomalous to all our institutions, inflicting so much misery upon society, should have been so long endured. It is at variance with the settled character of our population. Whenever objects of charity present themselves, all of our sympathies are called into action. There is scarcely a hamlet in our country, where benevolent societies do not exist—often extending their munificence to families deprived of their support by this oppressive system. We have not only expended our treasure to enlighten the sons of the forest, but we have sought out the victims of misfortune in foreign regions. The isles of the Pacific, the burning climes of Africa, the children of wretchedness in Europe and in Asia, even the land of Palestine, have enjoyed the fruits of American benevolence, obtained by voluntary contribution, while the cries of the unfortunate debtor among us, are unheard and unrequited. Public sentiment demands his release, but avarice pleads the cause of oppression, and prejudice rivets the chain.

The committee ask leave to report a bill.

The following extract, taken from the Report of the Visiters and Governors of the Jail of Baltimore county, and which is appended to the Report, is the result of one county in Maryland, and under mild and humane insolvent laws.

EXTRACT.

"It appears that during the year, ending on the 26th of November 1831, 959 of our fellow-citizens have been deprived of their liberty, for this cause, (imprisonment for debt,) more than half of them for debts under $10, and only thirty-four of the whole number for debts exceeding $100. More than half have been discharged from prison, by taking the benefit of the insolvent laws, or by the creditor declining to pay maintenance money; and the records of the pr on present only eighty-one as having been discharged by paying their debts. The expense of boarding these debtors, is $1,430$\frac{41}{100}$, and the amount of debts paid in jail, $466 6 cents."

"The inference we draw from this statement, is, that little money is recovered by imprisonment for debt, and that any advantages which may possibly result from the practice, are greatly overbalanced by the loss which the community suffers in being deprived of the services of its members; amounting, during the past year, to 7657 days, which would have been appropriated to productive labor, in paying for their support, while imprisoned, and in the baneful effects which imprisonment is calculated to produce on the individuals who are its subjects."

Again, "

number of debtors for 1 dollar, and less,	53
For more than 1, and less than 5,	306
more than 5, and less than 10,	219
more than 10, and less than 20,	179
more than 20, and less than 100,	168
more than 100,	34
	959